(2)

NO. 93-1914

Supreme Court, U.S.
FILED
JUN 24 1994
OFFICE OF THE CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1993

TIMOTHY D. WILLIAMS, JR., ET AL
PETITIONERS

v

BURNHAM BROADCASTING COMPANY,
A LIMITED PARTNERSHIP
d/b/a WVUE-TV 8
RESPONDENT

PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF LOUISIANA

OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

DOMINIC J. GIANNA
MIDDLEBERG, RIDDLE & GIANNA
201 St. Charles Avenue, 31st Floor
New Orleans, Louisiana 70170
Telephone: (504) 525-7200

COUNSEL FOR RESPONDENT, BURNHAM BROADCASTING COMPANY, A LIMITED PARTNERSHIP d/b/a WVUE TV-8

A B Letter Service, Inc., 327 Chartres St., New Orleans, La. (504) 581-5555

44 pp

QUESTION PRESENTED FOR REVIEW

Contrary to the "Questions Presented" by Petitioners in their Petition for a Writ of Certiorari, this case does not raise any unsettled issues of constitutional law. The only question presented by this Case is whether activities that constitute extortion under state and federal laws can be so mischaracterized as to receive protection from the First Amendment's guarantee of the freedom of speech.

PARTIES TO THE PROCEEDINGS

Petitioners, Timothy D. Williams, Jr., Donnie Williams, and The Christian Church of New Orleans Investigating and Interrogating Body were Defendant-Relators in the proceedings before the Supreme Court of Louisiana.

Respondent, Burnham Broadcasting Company, A Limited Partnership d/b/a WVUE TV-8 was Plaintiff-Respondent in the proceedings before the Supreme Court of Louisiana.

TABLE OF CONTENTS

Page

Questions Presented for Review i

Parties to the Proceedings ii

Table of Contents iii

Table of Authorities v

I. STATEMENT OF THE CASE 1

A. Procedural Background 1

B. Summary of the Facts 1

C. Response to Petitioners' Statement of the Case 3

II. SUMMARY OF ARGUMENT 8

III. ARGUMENT 9

A. Criminal Speech Receives Little or No Constitutional Protection 9

B. The Lower Courts Enjoined Criminal Conduct, Not Beliefs 13

TABLE OF CONTENTS (continued)

Page

C. *R.A.V. v. St. Paul* and *Madsen v. Women's Health Center* 15

D. The Lower Court Holdings are Consistent with *Claiborne Hardware* 17

E. The Injunction is Narrowly Tailored and is Necessary to Present Specific Abuses 19

IV. CONCLUSION 22

TABLE OF AUTHORITIES

CASES **PAGE**

Bigelow v. Virginia, 421 U.S. 809, 95 S.Ct. 2222, 44 L. Ed.2d 600 (1975) 11

Broderick v. Oklahoma, 413 U.S. 601, 93 S.Ct. 2908, 37 L.Ed.2d 830 (1973) 19,21

Burnham Broadcasting Co. v. Williams, 629 So.2d 1335 (La.App. 4th Cir., 1992), *writ denied* 632 So.2d 770 (La. 1994) 3

Cantwell v. Connecticut, 310 U.S. 296, 60 S.Ct. 900, 84 L.Ed. 1213 (1940) 9

Carroll v. President and Com'rs of Princess Ann County, 393 U.S. 175, 89 S.Ct. 347, 21 L.Ed.2d 325 (1968) 16,17

Chaplinsky v. New Hampshire, 315 U.S. 568, 62 S.Ct. 766, 86 L.Ed. 1031 (1942) 9,10,11

City Counsel of Los Angeles v. Taxpayers for Vincent, 466 U.S. 789, 104 S.Ct. 2118, 80 L.Ed.2d 772 (1984) 20

Frisby v. Schultz, 487 U.S. 474, 108 S.Ct. 2495, 101 L.Ed.2d 420 (1988) 20

Giboney v. Empire Storage and Ice Company, 336 U.S. 490, 69 S.Ct. 684, 92 L.Ed. 834 (1949) 10,12

TABLE OF AUTHORITIES (continued)

CASES **PAGE**

Hirsh v. City of Atlanta, 495 U.S. 927, 110A S.Ct. 2163, 109 L.Ed.2d 493 (1990) 14

Ligget Company v. Baldridge, 278 U.S. 105, 49 S.Ct. 57, 73 L.Ed. 204 (1928) 21

Lloyd Corp. v. Tanner, 407 U.S. 551, 92 S.Ct. 2219, 33 L.Ed.2d 131 (1972) 10

Machesky v. Bizzell, 414 F.2d 283 (5th Cir. 1969) 17

Madsen v. Women's Health Center, Inc., 627 So.2d 618 (Fla. 1993), *cert. granted* - U.S. -, 114 S.Ct. 907, 127 L.Ed.2d 1215 (argued April 28, 1994) 16,17,22

NAACP v. Claiborne Hardware Company, 458 U.S. 886, 102 S.Ct. 3409, 73 L.Ed.2d 1215 (1982) . . . 9,11,17

National Society of Professional Engineers v. United States, 435 U.S. 679, 98 S.Ct. 1355, 55 L.Ed.2d 637 (1978) 14

New York v. Ferber, 458 U.S. 747, 102 S.Ct. 3348, 73 L.Ed.2d 1113 (1982) 11,12

Northeast Women's Center, Inc. v. McMonagle, 868 F.2d 1342, (3rd Cir.), *cert. denied* 493 U.S. 901, 110 S.Ct. 1515 (1989) 12

TABLE OF AUTHORITIES (continued)

CASES **PAGE**

R.A.V. v. City of St. Paul, - U.S. -, 112 S.Ct. 2538, 120 L.Ed.2d 305 15

Roberts v. United States Jaycees, 468 U.S. 609, 104 S.Ct. 3244, 82 L.Ed.2d 462 (1984) 10,15

Schenck v. United States, 249 U.S. 49, 39 S.Ct. 247, 63 L.Ed. 470 (1919) 9,10,12,15

Spence v. Washington, 418 U.S. 405, 94 S.Ct. 2727, 41 L.Ed.2d 842 (1974) 16

State v. Felton, 339 So.2d 797 (La. 1976) 20,21

Texas v. Johnson, 491 U.S. 397, 109 S.Ct. 2533, 105 L.Ed.2d 342 (1989) 9,14,16

United States v. Hutson, 843 F.2d 1232 (9th Cir. 1988) 21

United States v. Marchetti, 466 F.2d 1309, (4th Cir.) *cert. denied* 409 U.S. 1063, 93 S.Ct. 553 (1972) 12

United States v. Mitchell, 463 F.2d 187, (8th Cir. 1972), *cert. denied* 410 U.S. 969, 93 S.Ct. 1449 (1973) 12

TABLE OF AUTHORITIES (continued)

CASES **PAGE**

United States v. Quinn, 514 F.2d 1250 (5th Cir. 1975), *cert. denied* 424 U.S. 955, 96 S.Ct. 1430 (1976) 11

Wisconsin v. Mitchell, - U.S. -, 113 S.Ct. 2194, 124 L.Ed.2d 436 (1993) 14

STATUTES

LSA-R.S. 14:66 6

18 U.S.C.A. § 1951 21

STATEMENT OF THE CASE

A. Procedural Background

This case comes before this Court on a Petition for Writ of Certiorari filed on behalf of Pastor Timothy D. Williams, Jr., Donnie Williams, The Christian Church of New Orleans, and The Christian Church of New Orleans Investigating and Interrogating Body (collectively referred to as "Petitioners" or "TCCNOIIB"). The case was originally brought by Burnham Broadcasting, a Limited Partnership d/b/a WVUE TV-8 ("Respondent" or "WVUE") to enjoin TCCNOIIB from obtaining free television air time by blackmail. The injunction was affirmed by the Louisiana Fourth Circuit Court of Appeal. The Supreme Court of the State of Louisiana denied Petitioners' writ application to review the decision of the appellate court.

B. Summary of the Facts

The Petitioners had devised a method to extort valuable television air time from New Orleans television stations. They demanded free air time and news coverage. If the broadcast station refused to accede to their demands, they threatened to picket the station and the stations' advertising customers. The Petitioners carried signs calling the target television station and the advertisers "racist" and other vile epithets. They specifically targeted advertisers that cater to minority customers.

WVUE became one of the Petitioners' targets. Petitioners threatened to picket WVUE's advertisers unless the station met their demands for free air time and publici-

ty for Pastor Williams. WVUE attempted to work with and even appease the Petitioners. WVUE's attempts resulted in more demands. TCCNOIIB members eventually picketed WVUE's advertisers, carrying signs accusing WVUE of being "racist" and the advertisers of "racism through neutrality". As a direct result of those pickets, advertisers ceased purchasing air time from WVUE and informed WVUE that the cancellation of business was a result of the picketing. To protect its right to conduct business and remain on the air, WVUE petitioned the state district court to end Petitioners' acts of extortion and blackmail.

The Preliminary Injunction issued by the district court enjoined acts of intimidation, extortion or threats intended to gain air time or anything else of value. The trial court found, as a matter of fact, that TCCNOIIB, led by Pastor Timothy D. Williams, Jr., had perfected a scheme to blackmail television stations into providing free broadcast time and news coverage. The court found that if the demands were not met to the satisfaction of Pastor Williams, Petitioners threatened to, and did picket the stations' advertising customers proclaiming that the business was racist and paternalistic. *See,* Trial Court Reasons for Judgment, Appendix A.

In a decision rendered on December 16, 1993, the Louisiana Court of Appeals for the Fourth Circuit affirmed the granting of the preliminary injunction issued by the trial court, finding that TCCNOIIB's actions constituted a violation of the federal Racketeer Influenced and Corrupt Organizations Act ("RICO"). *Burnham Broadcasting Co. v. Williams,* 629 So.2d 1335 (La.App.4th Cir. 1993). On February 25, 1994, the Louisiana Supreme Court denied

Petitioners' Writ of Certiorari/Review. *Burnham Broadcasting Co. v. Williams,* 629 So.2d 1335 (La.App. 4th Cir. 1993), *writ denied,* 632 So.2d 770 (La. 1994). Petitioners now erroneously allege in their Petition to this Court that the injunction - an injunction that enjoined the extortion of free air time - is unconstitutional under the First Amendment of the United States Constitution.

C. Response to Petitioners' Statement of the Case

Petitioners' Statement of the Case alleges that it was their "intention to get respondent to provide a more balanced coverage of the news, particularly as it relates to the black community." Petitoners' Writ for Certiorari, pg. 3. Petitioners also claim they were motivated out of a desire "to discuss social issues", Petitioners' Writ at 4, and "investigate and deal with . . . racism and injustice." Petitioners' Writ at 2.

Petitioners' claim of purely altruistic goals deserves closer scrutiny. In contrast to this stated policy of combating social ills, facts proven in the trial court reveal that TCCNOIIB's goals were actually to publicize the organization and aggrandize its leader, Timothy D. Williams.[1] A

[1] Petitioners admitted at trial that their goal was to obtain free air time and publicity for Pastor Williams and the group. Petitioners admitted that the air time sought is a thing of value. Additionally, it was proven at the trial court that Pastor Williams and TCCNOIIB profited from their extortionate activities. Bill Watson Ford (a local New Orleans car dealership) paid $5,000.00 in settlement after Pastor Williams alleged that employees of Bill Watson Ford splashed TCCNOIIB protestors with water during a protest in front of the car dealership. The employees were washing cars on the sales lot. It was proven that Pastor Williams personally received $4,500.00 from the car dealership. The "injured" group members received $500.00 to settle their claims. Notably, Pastor Williams and TCCNOIIB agreed in the settlement and release documents to refrain from further picketing of Bill Watson Ford, Inc.

letter written by Pastor Williams and directed to WVUE demonstrates TCCNOIIB's overriding desire to obtain publicity and free television coverage:

> ...it was insensitive, illogical, and very undionetical [sic] for you to refuse to give us restitution, in the sense of more air time...after you promised us that you were going to deal with our Aetna protest regarding the alleged racism against Donnie Williams, we had to wait six months before you coordinated [Warren] Bell to deal with the issue.
>
> We were promised a cemera many times on the Aetna location, but did not receive one. Later, you promised to send a camera crew and no one showed up, because you claim that the Jazz Festival was your obstruction....because the most vital points in which I dealt with concerning wallpaper racism were cut out [of a previously taped report]...you, in return....decided to give me ten minutes of unedited air time on Newsmakers.
>
> ...Through your present racist posture through being neutral, by taking a cold, insensitive position through refusing to restitute us in the situation by giving the additional fifteen minute air time. Because you have taken this staunch unethical position, you have left us with no other choice but to protest against your station and boycott your sponsors.

Letter of Timothy D. Williams to WVUE of 2/26/91, Appendix B.

In its statement of the case, TCCNOIIB also avoided mentioning the inflammatory tactics it employed to take advantage of the societal stigma associated with the label "racist." Group members carried signs denouncing the station and its advertisers as racist and paternalistic toward African-Americans. Petitioners' signs (carried in front of the advertisers' places of business) accuse the advertisers' customers of being "**. . . mentally ill and morally sleep** [sic] **if you shop here.**" TCCNOIIB also accused the station and its advertisers of being "**. . . infected with gonorrhea of racism and the lung cancer of unethical paternalism**". Petitioners never substantiated their charges with facts. Instead, they exploited the station's advertisers' fear of economic loss, thereby gaining the leverage necessary to attain their illegal objective of extorting valuable broadcast time and controlling the station's news coverage.

WVUE attempted to resolve this volatile situation by providing the group with the requested free air time and coverage. Each time, WVUE's efforts were met with dissatisfaction, increased demands and renewed threats. When it became apparent that TCCNOIIB could not be appeased, WVUE ceased attempting to work with the group. In a letter dated October 11, 1992, Pastor Williams admitted that WVUE had in fact cooperated, but renewed his threats anyway:

> In truth, you have made some efforts to balance the scales for Black people concerning racism, but your racist concepts about Black people finally came to the surface, when you said, 'we were being unreasonable, and you didn't feel comfortable working with us.'

* * *

> You have five (5) days to respond to this letter. We shall not boycott you until we finish dealing with a major issue that we are presently dealing with.

Letter of Timothy D. Williams to WVUE of 10/11/92, Appendix C.

Only after efforts to placate the group failed and as the last resort, WVUE filed a Petition for Injunctive Relief on November 25, 1992. After a full contested hearing on the merits, the trial court issued a Preliminary Injunction enjoining Petitioners from threatening, whether directly or indirectly, WVUE and WVUE's advertisers. The trial court found that WVUE had established the requisite prima facie case of extortion.[2] The injunction was issued on December 11, 1992 and served on December 13, 1992.

---

[2] "Property" under the Federal Extortion Act (28 U.S.C. § 1951) "includes, in a broad sense, any valuable right considered as a source or an element of wealth," including "a right to solicit business." *United States v. Tropiano,* 418 F.2d 1069, 1075-76 (2nd Cir. 1969), *cert. denied* 397 U.S. 1021, 90 S.Ct. 1262 (1970). In addition, fear of economic harm satisfies the requirement that a defendant induced property from another for wrongful use of fear. *See, e.g., U.S. v. Jacobs,* 451 F.2d 530 (5th Cir.), *cert. denied* 405 U.S. 955, 92 S.Ct. 1170 (1972); *U.S. v. Duhon,* 565 F.2d 345 (5th Cir.) *cert. denied* 435 U.S. 952, 98 S.Ct. 1580 (1978).

Louisiana's extortion statute, LSA-R.S. 14:66 states in pertinent part, "extortion is the communication of threats to another with the intention thereby to obtain anything of value or any acquittance, advantage or immunity of any description." LSA-R.S. 14:2(2) defines "anything of value" to include any conceivable thing of the slightest value, movable or immovable, corporeal or incorporeal, public or private, including transportation, telephone and telegraph service, or any other service for hire. *See also State v. Moore,* 419 So.2d 963, 967 (La. 1982)(even sexual favors are a thing of value within the meaning of the extortion statute).

Despite the injunction, on the very next day, December 14, 1992, TCCNOIIB picketed an advertiser of WVUE using the same words, phrases and threats as before. As a consequence, WVUE moved to find Petitioners in contempt of court. At the contempt trial, WVUE proved that the Petitioners used tactics identical to their earlier boycotts to threaten and intimidate the advertisers.[3] The trial court found that TCCNOIIB and Donnie Williams willfully disobeyed the court's injunction and were adjudged in contempt of court. (Timothy Williams failed to appear in court for the contempt hearing).

---

[3] Contrary to the allegation of Petitioners in their Petition for Writ, evidence was presented at the contempt hearing of the relationship between the decision of an advertiser to resume advertising on WVUE and TCCNOIIB's renewed protest. WVUE submitted into evidence a taped message to the advertiser left by Petitioner, Donnie Williams and video tape of pickets. WVUE also presented a number of fact witnesses who testified that they were indeed threatened by the group, had cancelled advertising on WVUE, resumed advertising after the injunction was issued — but then received renewed threats after the issuance of the injunction — and, as a consequence of the threats and intimidation, cancelled or were considering cancelling their advertising on WVUE.

II. SUMMARY OF ARGUMENT

This case concerns nothing more than the propriety of an injunction that prohibits extortion and blackmail. It presents this Court with no unsettled question of constitutional law.

Petitioners' Statement of the Facts stretches the facts in an attempt to raise a First Amendment issue that does not exist. Their assertion that their actions were driven by a goal to remedy societal ills is belied by the proven fact that their real purpose was to publicize their group, aggrandize its leader and profit from their threats. (It was proven that the group and its leader profited to the tune of $5,000.00 by using their methods against one of WVUE's advertisers. *See, supra* pg.3, n.1). Based upon their misleading assertions, Petitioners make analogies to cases that involve legitimate First Amendment concerns. However, those cases are factually dissimilar and legally inapposite.

Petitioners have also failed to explain why this case presents any issue of general importance ripe for Supreme Court review. The mere allegation that the injunction is overbroad and content based is not enough. Petitioners fail to offer any support for their conclusory allegations and ignore a basic tenet of First Amendment law: speech which constitutes a crime does not receive First Amendment protection.

Petitioners' plea for First Amendment protection in this case is akin to requesting protection for the shout of "fire" in a crowded theater. *Schenck v. United States,* 249

U.S. 49, 39 S.Ct. 247, 63 L.Ed. 470 (1919). In the seventy-five years which have passed since the *Schenck* decision, this Court has consistently held that the First Amendment affords no protection for threats, violence, extortion or other forms of speech that have little or no value to society. It is not necessary for this Court to reconsider such black letter law.

III. ARGUMENT

A. Criminal Speech Receives Little or No Constitutional Protection

The First Amendment guarantees Americans the right to engage in speech or conduct intended to convey ideas. *See, e.g., Cantwell v. Connecticut,* 310 U.S. 296, 309-11, 60 S.Ct. 900, 905-06, 84 L.Ed.1213 (1940); *Texas v. Johnson,* 491 U.S. 397, 406, 109 S.Ct. 2533, 2540, 105 L.Ed.2d 342 (1989). Indeed, social and political change effectuated through *legal* expression has always received the highest constitutional protection. *NAACP v. Claiborne Hardware Company,* 458 U.S. 886, 913, 102 S.Ct. 3409, 3425, 73 L.Ed.2d 1215 (1982). Nevertheless, every utterance is not speech. *Chaplinsky v. New Hampshire,* 315 U.S. 568, 62 S.Ct. 766, 86 L.Ed. 1031 (1942). *Chaplinsky* teaches that: "There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. . ." *Chaplinsky,* 315 U.S. at 571-72, 62 S.Ct. at 769.

Chaplinsky dealt with "fighting words," speech directed against an individual intended to provoke violence

or to inflict injury. *Chaplinsky,* 315 U.S. at 572, 62 S.Ct. at 769. "Fighting words" so lack the values the First Amendment was designed to protect that this Court has held that the Constitution affords no protection to the expression. Similarly, this Court has also found that violence or other types of "potentially expressive activities that produce special harms distinct from their communicative impact . . . are entitled to no constitutional protection." *Roberts v. United States Jaycees,* 468 U.S. 609, 628, 104 S.Ct. 3244, 3255, 82 L.Ed.2d 462 (1984).

Like "fighting words," speech and its expressive components designed and intended to resort in illegal or criminal activity is not protected by the First Amendment." *Giboney v. Empire Storage and Ice Company,* 336 U.S. 490, 502, 69 S.Ct. 684, 691, 92 L.Ed. 834 (1949) (holding that an injunction to enjoin the violation of state law is constitutional because the First Amendment does not extend to speech used as an integral part of criminal conduct). *See also Schenck,* 249 U.S. at 52, 39 S.Ct. at 249 (1919) (one who falsely shouts "fire" in a crowded theater may not claim the protection of the First Amendment); *Lloyd Corp. v. Tanner,* 407 U.S. 551, 566-67, 92 S.Ct. 2219, 2227-28, 33 L.Ed.2d 131 (1972) (trespass may be prohibited even when it amounts to a powerful, expressive vehicle); *Claiborne Hardware,* 458 U.S. at 895, 102 S.Ct. at 3425 (violence does not warrant constitutional protection even if part of a traditionally protected activity such as protests or pickets).

While the conduct in each of the cases above may have contained some expressive political content, this Court has long felt that "the evil to be restricted so over-

whelmingly outweighs the expressive interest, if any, at stake, that no process of case-by-case adjudication is required." *New York v. Ferber,* 458 U.S. 747, 763-64, 102 S.Ct. 3348, 3358-59, 73 L.Ed.2d 1113 (1982); *Bigelow v. Virginia,* 421 U.S. 809, 819, 95 S.Ct. 2222, 2231, 44 L.Ed.2d 600 (1975).

In the instant case, both the trial and appellate courts found that Petitioners' purpose and intent was to extort valuable air time. Nevertheless, Petitioners now seek to cloak this extortionate activity with the First Amendment. Petitioners ask this Court to reexamine well-established rules of First Amendment law but, at the same time, ignore the lack of any true expressive content in their activity. Cases like *Chaplinsky, Claiborne Hardware,* and *Ferber* hold that speech does not receive constitutional protection when it is an integral part of a criminal act and lacks communicative value. Petitioners' conduct in this case is precisely the type of speech denied protection by these cases.

This court has repeatedly refused to grant certiorari in cases where a defendant seeks to legitimize extortion by invoking the First Amendment. For example, in *United States v. Quinn,* 514 F.2d 1250 (5th Cir. 1975), *cert. denied* 424 U.S. 955, 96 S.Ct. 1430 (1976), a case very similar to the present, the defendant claimed the First Amendment shielded from prosecution his extortionate threats to protest and picket. The defendant, a reverend and civil rights activist, had attempted to extort money from a business in exchange for calling off protests alleging racism. The trial court convicted the defendant of extortion. On appeal, the U.S. Fifth Circuit affirmed, stating:

> "It may categorically be stated that extortionate speech has no more constitutional protection than that uttered by a robber while ordering his victim to hand over the money, which is no protection at all. As the Fourth Circuit succinctly stated in *United States v. Marchetti*, 466 F.2d 1309, 1314 (4th Cir. 1972) [*cert. denied* 409 U.S. 1063, 93 S.Ct. 553 (1972)], "Threats and bribes are not protected simply because they are written or spoken; extortion is a crime although it is verbal."

Quinn, 514 F.2d at 1268.

As *Quinn* demonstrates, this Court has consistently refused to grant certiorari in cases holding that speech receives no First Amendment protection when it is an element of extortion. *See also United States v. Mitchell*, 463 F.2d 187, 191-92 (8th Cir. 1972). (". . . it is immaterial in this respect that Mitchell may have engaged in protected speech activity, for such activity could not have sanctified his extortionate threats") *cert. denied* 410 U.S. 969, 93 S.Ct. 1449 (1973); *Northeast Women's Center, Inc. v. McMonagle*, 868 F.2d 1342, 1348 (3rd Cir. 1989), (" 'civil disobedience' does not thereby immunize [defendants] from statutes prescribing the very acts the jury found Defendants committed."), *cert. denied* 493 U.S. 901, 110 S.Ct. 1515 (1989)

Petitioners fail to present any reason, much less any compelling reason, why this Court should deviate from its long-practiced policy in cases involving extortion. Petitioners' proven acts fall squarely in the category of unprotected speech found in *Giboney, Schenck, Ferber* and in

the numerous other cases withholding First Amendment protection for criminal speech.

B. The Lower Courts Enjoined Criminal Conduct, Not Beliefs

Petitioners baldly allege in their Petition for Writ of Certiorari that, "The injunction in the case at bar restricts not only when, where and how petitioners may speak, but, also, what petitioners may say. The injunction permits only those protests and boycotts by petitioners to 'seek redress of grievances from government to enact laws or policies against racism and paternalism.'" Petitioners' Writ at 19.

Petitioners' allegations are not supported by the plain language of the injunction. The injunction is only directed at preventing the harmful effects of Petitioners' conduct and only prohibits extortionate activity. The injunction leaves the content of Petitioners' speech unregulated. The injunction is carefully worded to enjoin only pickets, protests, and speech that threaten economic harm unless free air time is provided. No restrictions are placed on Petitioners' motives, thoughts, expressions or ideology. TCCNOIIB is free to picket WVUE and its advertisers and may continue to allege "racism and paternalism" or any other ugly untruth.[4]

This Court has condoned restrictions on harmful *con-*

---

[4] Paragraphs one and two of the injunction prevents Petitioners from extorting air time from WVUE by picketing WVUE's advertising customers. Paragraph three of the injunction enjoins Petitioners from picketing WVUE's advertisers in order to entice the advertiser to stop advertising on WVUE (i.e., carrying out the extortionate threats made in the letters incorporated as Appendix B and C).

duct even when it otherwise constitutes speech. *See, e.g., Wisconsin v. Mitchell*, -U.S.-, 113 S.Ct. 2194, 124 L.Ed.2d 436 (1993). *Wisconsin* states that the First Amendment prohibits a state actor from restricting abstract beliefs, but it does not prohibit regulation of specific harm motivated by those abstract beliefs. *Wisconsin*, 113 S.Ct. at 2200-01. The distinction between expressive speech protected by First Amendment and unprotected, harmful conduct was also recognized in *Texas v. Johnson*, 491 U.S. 397, 405, 109 S.Ct. 2533, 2540, 105 L.Ed.2d 342 (1989) (holding that all protests and boycotts do not share the same cherished expressive quality and; therefore, the context of the speech must be considered). Finally, this Court has never hesitated to empower trial courts with authority to "fashion appropriate restraints on [a defendant's] future activities both to avoid a recurrence of the violation and to eliminate its consequences." *National Society of Professional Engineers v. United States*, 435 U.S. 679, 697, 98 S.Ct. 1355, 1368, 55 L.Ed.2d 637 (1978) (holding that an injunction may restrict speech when necessary to curtail the violation of a law). *See also Hirsh v. City of Atlanta*, 495 U.S. 927, 110 S.Ct. 2163, 109 L.Ed.2d 493 (1990) (denial of stay) (Stephens, J., concurring) ("Enjoining criminal speech is permitted when the persons to be enjoined have demonstrated that they are likely to violate the law.").

The trial court responded reasonably and properly to Petitioners' criminal acts of extortion and blackmail. Review of the injunction on First Amendment grounds is therefore unwarranted and would fill no gaps in this Court's jurisprudence.

C. *R.A.V. v. St. Paul* and *Madsen v. Women's Health Center*

R.A.V. v. City of St. Paul, - U.S. -, 112 S.Ct. 2538, 120 L.Ed. 2d 305 (1992) provides the latest pronouncement of the constitutional deference afforded criminal or other traditionally unprotected speech. In *R.A.V.*, this Court reaffirmed the notion that certain speech can, "consistently with the First Amendment, be regulated *because of* [its] *constitutionally proscribable content* (obscenity, defamation, etc.)," *R.A.V.*, -U.S. -, 112 S.Ct. at 2543, [emphasis in original], as long as the *government* actor does "not regulate use based on hostility - or favoritism - towards the underlying message expressed." *R.A.V.*, - U.S. -, 112 S.Ct. at 2545.

To demonstrate the proper analytical approach, the court posed several hypothetical restrictions on "proscribable speech." The court stated that libel can be barred, but only if the bar is content neutral. For example, a ban on only libel critical of the government, would discriminate on the basis of content and would be constitutionally infirm. Conversely, a total ban on otherwise proscribable speech, such as child pornography, would not suppress "a particular literary theme." *R.A.V.*, - U.S. -, 112 S.Ct. at 2543.

R.A.V. grapples with the degree of protection afforded non-traditional methods of communication such as pornography and hate speech. This Court did not discuss more blatant forms of unprotected speech such as screaming "fire" in a crowded theater (*Schenck v. United States*) or simple robbery (the example from *United States v.*

Quinn). In the past, this Court has found these and similar crimes meritless and not "imbued with elements of communication" necessary to implicate the First Amendment. *Spence v. Washington*, 418 U.S. 405, 409, 94 S.Ct. 2727, 2730, 41 L.Ed.2d 842 (1974); *Texas v. Johnson*, 491 U.S. 397, 406, 109 S.Ct. 2533, 2540, 105 L.Ed.2d 342 (1989); *Roberts v. United States Jaycees*, 468 U.S. 609, 628, 104 S.Ct. 3244, 3255, 82 L.Ed.2d 462 (1984).

The injunction in the present case easily passes the stringent standard established in *R.A.V.* The injunction only restricts the criminal conduct Petitioners employed in their attempts to gain free air time. In keeping with the rule of law pronounced in *R.A.V.*, the injunction does not bar pickets or protests suggesting that WVUE is racist, or any other disfavored conduct TCCNOIIB wishes to allege. Instead, the injunction only bars Petitioners' extortionate conduct. The injunction is also well supported by society's interest in discouraging blackmail.

The recent case of *Madsen v. Women's Health Center, Inc.*, 627 So.2d 618 (Fla. 1993), *cert. granted*, - U.S. -, 114 S.Ct. 907, 127 (1994) (argued April 28, 1994), is the most appropriate vehicle for fleshing out this Court's pronouncement of the law on the issues that Petitioners allege are present in the instant case.[5] *Madsen* involved an

---

[5] Although not discussed by Petitioners in their Petition for Writ of Certiorari, this case, like *Madsen*, involves an injunction as the means of restraining speech. *Madsen*, therefore, presents this Court with the opportunity to clearly set forth the proper standard to employ in cases involving injunctions which enjoin speech.

Additionally, this case is factually distinguishable from *Carroll v. President and Com'rs of Princess Anne County*, 393 U.S. 175, 89 S.Ct.

injunction which restricted protests at an abortion clinic. In contrast to this case, the protesters in Madsen did not seek to extort anything of value. Also, unlike TCCNOIIB, the protesters in *Madsen* largely resorted to lawful tactics in order to bring about their desired end.

The present case is distinguishable from *Madsen* because it raises no unique or unsettled questions of constitutional law. The injunction in this case only bars the particulary insidious form of extortion petitioners have utilized against Respondent. Granting certiorari in this superficially similar case would only serve to weaken the ruling in *Madsen* and therefore should be avoided.

D. The Lower Court Holdings are Consistent with *Claiborne Hardware.*

TCCNOIIB places great reliance on *NAACP v. Claiborne Hardware,* 458 U.S. 886, 102 S.Ct. 3409, 73 L.Ed.2d 1215 (1982). Petitioners also rely on *Machesky v. Bizzell,* 414 F.2d 283 (5th Cir. 1969), a case similar to *Claiborne Hardware,* both in facts and outcome. *Claiborne Hardware* involved a consumer boycott of the white

---

footnote 5 continued

347, 21 L.Ed.2d 325 (1968) and other cases holding that injunctions affecting First Amendment rights "must be couched in the narrowest terms that will accomplish . . . the essential needs of the public order." *Carroll,* 393 U.S. at 183, 89 S.Ct. at 353. Unlike *Carroll,* the injunction in this case was not obtained by Respondents in an *ex parte* hearing. Petitioners were permitted the opportunity to present evidence and plead their case before the trial court. Respondent maintains however, that the injunction in the instant case passes constitutional muster even under the heightened requirements of *Carroll.*

merchants of Claiborne County, Mississippi. The object of the boycotts was to compel the merchants to support demands for racial justice presented to county officials. The Mississippi Supreme Court held the entire boycott tortious and enjoinable since some of the boycotters had purportedly used "force, violence, and threats" against other consumers. The United States Supreme Court unanimously reversed the Mississippi Supreme Court, stressing that the record showed only "isolated acts of violence." *Claiborne Hardware*, 458 U.S. at 923, 102 S.Ct. at 3431.

TCCNOIIB's attempts to analogize the facts of this case to *Claiborne Hardware* and thereby shield itself with the First Amendment are misleading. Any serious comparison between this case and *Claiborne Hardware* reveals their dissimilarities. The *Claiborne Hardware* boycott occurred at the height of the civil rights movement and was part of the NAACP's efforts across the south to overcome a century of segregation and unfair treatment. The NAACP boycott was designed solely to vindicate rights and achieve equality. *Claiborne Hardware* 458 U.S. at 915, 102 S.Ct. at 3426. The NAACP was anything but a group seeking self-aggrandizement.

In contrast, Pastor Williams and TCCNOIIB exclusively advance their own policy of self-promotion by extorting free air time using threats and intimidation. Unlike the *Claiborne Hardware* protests, the facts proven in the lower courts establish that these Petitioners do not seek to establish racial equality, but instead seek profit, publicity, and personal gain. TCCNOIIB has failed to advance a single supportable claim of racism or injustice perpetrated by WVUE.

The distinction between the political nature of the protected speech in *Claiborne Hardware* and the Petitioners' economically motivated activities is obvious. It is clear that political speech of any kind is highly protected by the Constitution. Speech intended to bring about profit, publicity or personal gain is not. In this case, the trial court enjoined only the self-serving extortionate activities traditionally denied constitutional protection—not the political discourse on which our country is founded. The injunction issued in this case is consistent with the holding of *Claiborne Hardware* and does not warrant constitutional review by this Court.

E. The Injunction is Narrowly Tailored and is Necessary to Prevent Specific Abuses

Petitioners allege that the injunction is overbroad and will "effectively outlaw the protests and boycotts found constitutionally protected by the court in *Machesky* and *NAACP v. Claiborne Hardware.*" Petitioners' Writ at 18. Petitioners vaguely warn that the injunction will "gut the essential protection of the First Amendment." Petitoners' Writ at 18. Petitioners, however, fail to present this Court with any specific explanation of why the injunction is overbroad.

The "overbreadth" doctrine is not applicable in this case. The doctrine permits a person to make a facial challenge to a statute which restricts speech even if the speaker has engaged in activity that could be regulated under a more narrowly tailored statute. *See, e.g., Broadrick v. Oklahoma*, 413 U.S. 601, 612-13, 93 S.Ct. 2908, 2916-17 L.Ed.2d 830 (1973). Overbreadth, therefore, permits some-

one engaging in activity falling outside the bounds of the Constitution to challenge a statute on behalf of persons whose constitutionally permissible activity potentially could be restricted by that statute. The doctrine is based on the fear that a broadly written statute may inhibit the protected speech of innocent third parties and result in a chilling effect on the First Amendment. *See Thornhill v. Alabama*, 310 U.S. 88, 60 S.Ct. 736, 84 L.Ed. 1093 (1940).

Petitioners' unsupported allegation that the injunction overreaches constitutional boundaries is specious. The injuncion is narrowly tailored and targets only the exact source of "the 'evil' it seeks to remedy." *Frisby v. Schultz*, 487 U.S. 474, 485, 108 S.Ct. 2495, 2503, 101 L.Ed.2d 420 (1988); *City Counsel of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 808, 104 S.Ct. 2118, 2130, 80 L.Ed.2d 772 (1984).The injunction does not enjoin any activity which is otherwise legal under the state and federal extortion statutes. In tailoring the injunction, the trial court properly enjoined only Petitioners' criminal acts and leaves the rights of the public at large undisturbed.

Assuming *arguendo* that Petitioners challenge the underlying statues in this case, this argument must too fail. Courts have found that both the federal and Louisiana extortion statutes do not facially infringe on the constitutional right of free speech.[6] Additionally, this Court has

---

[6] In *State v. Felton*, 339 So.2d 797, 800 (La. 1976), the Louisiana Supreme Court held that LSA-R.S. 14:66 (i.e., the Louisiana extortion statute) does not inhibit constitutionally protected areas of expression and instead only prohibits the use of threats intended to cause the victim to part with property. *Felton*, 339 So.2d at 800.

held that a statute will not be found overbroad if it is capable of interpretation consistent with the Constitution. This Court has consistently held that, because the overbreadth analysis is "strong medicine," *Broadrick v. Oklahoma*, 413 U.S. 601, 613, 93 S.Ct. 2908, 2916, 37 L.Ed.2d 830 (1973), it may be invoked only when the overbreadth is not only "real, but substantial as well." *Broadrick v. Oklahoma*, 413 U.S. at 615, 93 S.Ct. at 2918. *Broadrick* further states that the overbreadth doctrine "has been employed by the Court sparingly and only as a last resort. Facial overbreadth has not been invoked when a limiting construction has been or could be placed on the challenged statute." *Broadrick*, 413 U.S. at 613, 93 S.Ct. at 2916. The extortion statutes in the instant case are limited only to criminal activity. Their constitutionality should not be questioned.

---

footnote 6 continued

The federal extortion statute, 18 U.S.C. §1951, was upheld in *U.S. v. Hutson*:

> Because the statute in the present case is limited to extortionate threats, it does not regulate speech relating to social or political conflict, where threats to engage in behavior that may be unlawful may nevertheless be part of the market place of ideas. [citations omitted]. The "intent to extort" requirement of section 876 guarantees that the statute reaches only extortionate speech, which is undoubtedly within the government's power to prohibit.

United States v. Hutson, 843 F.2d 1232, 1235 (9th Cir. 1988).

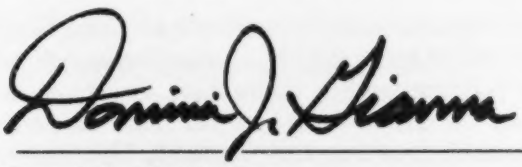
In *Hutson*, *Felton* and numerous other cases, courts have consistently held that prosecuting or enjoining extortion does not intrude on the First Amendment. Indeed, a prohibition on extortion preserves many fundamental rights such as the right to own and be compensated for property recognized in the Fifth and Fourteenth Amendments. *See Ligget Company v. Baldridge*, 278 U.S. 105, 49 S.Ct. 57, 73 L.Ed. 204 (1928) (holding that the right to pursue a lawful business including the solicitation of customers necessary to the conduct of such business has long been recognized as a property right). Petitioners apparently do not challenge the constitutionality of the Louisiana or federal extortion statute.

IV. CONCLUSION

Petitioners have not stated a valid case for this Court to grant the requested writ of certiorari. Rule 10 of the United States Supreme Court Rules sets forth the considerations which govern when review on a writ of certiorari will be granted. Petitioners have failed to establish that any of the considerations exist in the present case. Furthermore, this Court has frequently denied certiorari in cases identical to the case Petitioners now attempt to put before this Court. Finally, *Madsen v. Women's Health Center* provides the vehicle for this Court to decide the free speech issues that Petitioners erroneously claim arise in this case.

For the foregoing reasons, Respondent respectfully requests that the Petition for Writ of Certiorari be denied.

Respectfully submitted,



Dominic J. Gianna
MIDDLEBERG, RIDDLE & GIANNA
201 St. Charles Avenue
31st Floor
New Orleans, LA 70170
Telephone: (504) 525-7200

ATTORNEYS FOR RESPONDENT
BURNHAM BROADCASTING COMPANY, A LIMITED PARTNERSHIP
d/b/a WVUE TV-8

APPENDIX A

CIVIL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

NO. 92-20258 DIVISION "C"

BURNHAM BROADCASTING d/b/a WVUE-TV 8

versus

TIMOTHY WILLIAMS, ET AL.

REASONS

Plaintiff, Burnham Broadcasting Company, A Lim ited Partnership, d/b/a WVUE-TV 8 ("WVUE"), an F.C.C. licensed entity located in New Orleans which is within 40 miles of the border of the State of Mississippi, seeks injunctive relief, alleging that defendants, Timothy Williams, Jr., Jerry Davis, Jr., and The Christian Church of New Orleans Investigating and Interrogatory Body have coerced, threatened, and extorted WVUE to provide free air time and television coverage of the activities and opinions of their organization, that the extortion threats have continued despite attempts to comply with television coverage, and that the defendants have picketed and threatened plaintiff's advertisers in order to force plaintiff's compliance with the demand.

Defendants oppose the injunction, arguing that their

boycott and picketing of the plaintiff and its advertisers is protected activity under the First Amendment.

Defendants reliance on N.A.A.C.P. v. Claiborne Hardware Co., 458 U.S. 913, 102 S.Ct. 3409 (1982), is in part misplaced. That case held only that boycott activity possessing lawful aims and goals is protected by the First Amendment. Moreover, *N.A.A.C.P.* speaks to a secondary boycott to induce government action. In the case at bar, a tertiary boycott is involved with the specific intent to extort "income" from the plaintiff.

Although, research reveals no cases directly on point, "[i]t may categorically be stated that extortionate speech has no more constitutional protection than that uttered by a robber while ordering his victim to hand over money, which has no protection at all." *U.S. v. Hutson*, 843 F.2d 1232, 1235 (9th Cir. 1988). The issue for purposes of the First Amendment is not whether the statements are uttered in public or private, but rather whether the speech in question can fairly be characterized as extortion. See *McCalden v. California Library Ass'n.*, 955 F.2d 1214, 1229 (9th Cir. 1990). The defendants's[sic] public activity appears on the surface to be within the protection of the First Amendment; however, when viewed in conjunction with the letters attempting to obtain from the plaintiff free air time or coverage of the defendant's activities, the First Amendment protection is lost.

In support of their complaint, plaintiff presents two letters written by the defendants demanding compliance with their demand for television coverage within 3 days. Plaintiff argues that, as such, the defendants have violated

RICO, 18 U.S.C. 1962, which prohibits the control of any enterprise affecting interstate activity through a pattern of racketeering. The demand of television coverage on an FCC entity which broadcasts across state lines constitutes an activity affecting interstate commerce and the letters demanding free air time to proffer their views and activites[sic] are extortionary in nature, constituting the requisite 2 predicate acts. This in the Court's view constitutes an economic benefit to the defendants. See, *National Organization of Women v. Scheidler,* 968 F. 2d 612, 626-30 (7 Cir. 1992). Viewed in terms of the value of the free air time coverage, the defendants' demand is economically motivated.

A preliminary injunction requires that the plaintiff show irreparable injury. C.C.P. Art. 3601. Only the plaintiff is obligated to make a prima facia showing. And pursuant to C.C.P. Art. 3609, the Court heard this matter on affidavits and the verified pleadings. Stipulations were entered of record and no material question of fact exists about what has happened and what the defendants have done. In the court's view, a prima facia showing has been made and irreparable injury shown.

The plaintiff has shown a prima facia case of violations of the federal extortion statute, R.S. 14:66 and the federal mail fraud statutes. Although R.S. 14:47 may have been violated, the court believes that such statute is constitutionally impaired. Under 18 USC 1962 and the definitions in 18 USC 1961, a prima facia showing for the issuance of an injunction under federal law is shown. Only recently did federal law permit state courts to entertain violations of 18 USC 1962.

Webster's Ninth New Collegiate Dictionary defines "income" as "a gain or recurrent benefit usually measured in money that derives from capital or labor." Thus, the benefit sought by the defendants comes within the meaning of income for they seek a recurrent benefit.

A pattern of activity is shown by the defendants picketing WVUE and customers of WVUE, e.g., Bill Watson Ford, Universal Furniture, Hurwitz-Mintz, and others on several occasions. The letters of 26 February 1991 and 11 October 1992 mailed in the United States mail to the plaintiff are part of the pattern of activity.

The Court finds the cases of *Jund v. Town of Hempstead*, 941 F. 2d 1271 (2 Cir. 1991), *Northeast Women's Center, Inc. v. McMonagle*, 868 F. 2d 1342 (3 Cir. 1989), *U.S. v. Dickens*, 695 F.2d 765 (3 Cir. 1982) and *U.S. v. Mitchell*, 463 F. 2d 187 (8 Cir. 1972), support the position of plaintiff and the issuance of a preliminary injunction.

The defendants's right to express their opinions regarding racism and paternalism are constitutionally protected. They have the right to express their opinions freely. But when their conduct seeks something of value from a private entity such as WVUE, they cross the line of constitutionally protected First Amendment free speech.

For these reasons, and others, the Court will issue a preliminary injunction upon the posting of a bond

restraining portions of defendants's activity.

/s/ Max N. Tobias, Jr

JUDGE

11 December 1992.

A TRUE COPY

/s/ C. Crumfox

Deputy Clerk, Civil District Court
Parish of Orleans
State of LA.

APPENDIX B

February 26, 1991

EXHIBIT
B

Mr. Kevin Brenan
WVUE Channel 8
1025 South Jefferson Davis Pkwy.
New Orleans, LA 70125

Greetings Mr. Kevin Brenan,

I am fully aware of the immensified amount of onus responsibilities embodied and contained in your venerating endeavors as news director of WVUE Channel 8.

Nevertheless, the basic purpose of this letter is to binatingly disclose my extensive, deplorable grief toward your ultimate handling of the gravitous issues of racism and paternalism, and our congruent decision to protest against channel 8, and to start a local and national boycott against your advertising sponsors.

In truth, Mr. Brenan, it was insensitive, illogical, and very undianoetical for you to refuse to give us restitution, in the sense of more air time to disclose the issues of racism and paternalism by claiming that we are taking this position because of one mistake you made, when you know that it is now approximately the 9th month regarding your commitment to fair journalism, by giving equalitous coverage to the black community concerning racial issues. And yet, you have the insensatable, insolent audacity to say, "because I made this one mistake you are taking this position."

For the purpose of equilibrium and the avoidance of disequilibration, I remind you Mr. Brenan, that we have demonstrated the highest levels of patience, temperance, endurance, unintractableness, understanding, and immensified dignity. This was valified by the unoscillating fact that it took six months before you really nailed Warren Bell down to deal with the alleged racism of Aetna Insurance Company, concatenated with the many broken promises as we waited patiently for you to deal with the Aetna protest. *Example*: The protest against Aetna is now approximately one year old. Irrevocably, it shall be officially a year old in March of this year, but nevertheless; after you promised us that you were going to deal with our Aetna protest regarding the alleged racism against Donny Williams, we had to wait six months before you coordinated Bell to deal with the issue. We were promised a camera many times on the Aetna location, but did not receive one. When the Adolp Archie situation took place, you told us that you couldn't get a camera out because of the police officer who had been shot. We demonstrated patience and compassionate restraint because of the officer who lost his life. Later, you promised to send a camera crew and no one showed up, because you claimed that the Jazz Festival was your obstruction. And therefore, the racial issue was put on the back burner.

I and my organization again exercised unambiguous stability and restraint even though we knew that it was not proper to put the Jazz Festival before the seriousness of racism and paternalism, because we wanted to give you a chance to prove your commitment to the community. Again, the issue had to be put off because Warren acknowledged that he could not get a camera to come to the

location because I think Travis had taken the camera crew, or had sent the camera crew to Baton Rouge to do a story. Untautologingly we exercised immutable forbearance after waiting six whole months for you to deliver. Finally, you admonished Warren to go on with the special report, and when it was disclosed it was done inadequately, because the most vital points in which I dealt with concerning wallpaper racism were cut out, because Warren said those tapes were damaged. He confirmed that the tapes were not sabotaged. You, in return, approximately within seven months, decided to give me 10 minutes of unedited air time on Newsmakers. It took a number of weeks for me to come and do the taping after we waited for 7 months. And after the taping was done we had to wait an additional three weeks before you said it would air, in addition to the fact you said that even though the taping had to be put off until after Mardi Gras after we had now waited for 8 months.

In conclusion, you said we had to wait three weeks after the taping before it could even air on Newsmakers. And yet, with unlibrating unastaticness, we exercised temperance and much patience. And then, when the third week arrived you forgot that every forth Sunday that your UNO program is supposed to air. And therefore, we experienced another broken promise because Newsmakers was abrogated the Sunday in which you told us that it would be disclosed. Our choice to protest against your station and boycott your local advertising sponsors is not because of the one mistake you claimed you made, but it is because of your cold, insensitive posture toward the indignant vice of racism in the Black community, through being inequalitous toward the Black community. Because you didn't see the need for any retribution on you and your station's part by refusing to give the 15 minute

additional time to make up for the back burner position you gave to racism, by putting us off so many times, and then, take the position of leveling this down to one mistake you made: If you were sensitive you would feel a sense of obligation to want to restitute this situation because of the many times you prioritorized other issues before the issue of racism. If a person see[sic] a pregnant woman in travail[sic] for a long time, to the point that she might deliver and they remain neutral, definitely, that person communicates an insensitive, non caring spirit. And to have us wait this long with racism handled as a secondary issue, and then, have the audacity to say that your hair is rising is extremely putriditious and insensitive. And for this reason, we shall launch a full scale protest against your station, and we have decided to go all the way with it, to expose your racist, insensitive posture to the community, and we shall also boycott your local advertising sponsors until your racist posture is put to death, and an epitaph is erected over it. Because of the puissant[sic] endurance of this protest and boycott, more than your hair shall rise. You no longer deserve Black patronage, nor ethical White patronage.

We have proven and totally deictified to you that our motives are pure without insincerity and deceit, through our extensive amount of patience, much restraint, and impeccable temperance. That has been confirmed totally by virtue of the fact that we have not been like a wild stallion waiting for someone to open the coral[sic] gate in order that we might come charging out forcefully. But on the otherhand, we have been unastatic and totally temperate, in that we have not been overly anxious to protest against your station, and boycott your sponsors, or otherwise, we would have done it after we experienced the many broken

promises through the way we were put off many times, and had to wait for a long time for you to deal with those issues. And after they were finally done, they were done inadequately. But through your present racist posture through being neutral, by taking a cold and insensitive position through refusing to restitute us in this situation by giving the additional 15 minute air time. Because you have taken this staunch unethical position, you have left us with no other choice but to protest against your station and boycott your sponsors. And it shall be done with bastioning resilience, unapoplectic mobility, and inextricable puissance until your racial injustice is deleted, and totally put to death. You only have 3 days to respond to this letter if you want to stop the protest and boycott. If you are prepared to lose hundreds of thousands of dollars within the next few months, then, take lightly what I am saying. But on the otherhand, if you are sagacious enough to understand the significance and puissance of Black patronage, then, you need to settle this matter within 3 days, or otherwise, we are going all the way with the protest and boycott.

In Christ's love,

/s/ Timothy D. Williams Jr.
Pastor Timothy D. Williams Jr.

TDW/ca

Telephone No. (504)947-5381

APPENDIX C

October 11, 1992

EXHIBIT C

Mr. Nye, and Mr. Barton
WVUE-TV 8
1025 South Jefferson Davis Pkwy.
New Orleans, LA 70125

Greetings Mr. Nye, and Mr. Barton,

In truth, I am fully aware of the multiplicitous, and immensified, onus responsibilities embodied in your noble endeavors.

However, I am writing from a binated perspective, and I shall seek to be very brevitous in my disclosure.

First of all, we do appreciate some of the profitable things you sought to do, regarding the subject of racism and paternalism, and for your efforts, we are thankful, and shall be forever appreciative.

Nevertheless, we have sought to be reasonable, understanding, and very empathetic in our previous working relationship with you, especially with Andy Barton. We have worked hard in our labors and battles against racism and paternalism, in order that we might elucidate you to be more sensitive to our dilemma of inequality and unfairness through racism and paternalism.

But now, we are back where we started from, because you have decided to place racism on the back burner. Mr. Barton, we considered you a friend! In truth, you have made some efforts to balance the scales for Black people concerning racism, but your racist concepts about Black people finally come to the surface, when you said, "we were being unreasonable, and you didn't feel comfortable working with us."

Conclusively, I deplore, and exaccerbatingly excoriate you and Mr. Nye's position. I, and my people are tired of the vacillating, astaticisizing posture of the media when it comes to the vice of racism! We too no longer feel comfortable working with you, because you are not able to render a fair standard to Black people, but you seek to be fair with your own. None of us protested against you covering David Duke when you were showing him everyday! You rammed coverage about him down our throats morning, noon, and night, and none of us protested, and none of us are interested in anything he has to say! But we realized that even though he is a racist, yet, he is a citizen of the country, and has a right to be heard!

My other reason for writing, is to officially validate the fact that because of your neutral posture in deciding to take a back burner position toward racism and paternalism, while doing coverage on dogs, cats as number one issues over racism: we have decided to protest and boycott against your station, and your sponsors who take sides with you indefinitely until we break the backbone of your racism!

It is easy for you to take the position of placing a

band-aid on a cancer type posture toward racism, because you don't have the ugly child of racism incessantly riding on your backs with indignance. You have five (5) days to respond to this letter. We shall not boycott you until we finish dealing with a major issue that we are presently dealing with.

In Christ's love,

/s/ Timothy D. Williams Jr.
Pastor Timothy D. Williams Jr.

TDW/ca